

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 2917 – SB 2897

April 5, 2010

SUMMARY OF AMENDMENT (015021): Deletes all language from the original bill. Requires all persons convicted of DUI to use only a motor vehicle equipped with a functioning ignition interlock device (IID) for a specific period of time. Requires a person convicted of DUI who is involved in an accident in which one or more persons was killed to operate a motor vehicle with an IID for seven years. Increases from \$15 to \$47 the monthly fee required for a person ordered to use an IID. Allocates \$45 to the Ignition Interlock Fund and \$2 to the Department of Safety. Adds language requiring periods of incarceration for the proposed Class A misdemeanor offense for tampering with an interlock device or having another person attempt to start a motor vehicle equipped with an interlock device. The periods of incarceration shall be 48 hours for the first offense, 72 hours for the second offense, and seven days for a third offense.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$3,479,000/Recurring/Interlock Assistance Fund (IAF)
\$237,100/Recurring/Earmarked For Department of Safety
\$1,969,800/Recurring/General Fund

Increase State Expenditures –

\$3,479,000 /Recurring/IAF
\$7,364,900/Recurring/General Fund
\$165,400/One-Time/General Fund

Increase Local Revenue – \$303,800/Recurring

Increase Local Expenditures – Not Significant

Other Fiscal Impact – Non-compliance with federal requirements will result in the transfer of three percent of federal highway funds appropriated to the State for the National Highway System as required by U.S. Title 23 § 164. Approximately \$16,000,000 will be transferred to U.S. Title 23 § 402 highway safety programs.

HB 2917 – SB 2897 CORRECTED

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On February 15, 2010, we issued a fiscal memorandum for this bill as amended indicating an *increase to state revenue of \$10,857,600/Recurring/Interlock Assistance Fund (IAF), \$474,200/Recurring/Earmarked For Department of Safety, and exceeding \$1,969,800/Recurring/General Fund, an increase state expenditures of \$9,796,800/Recurring/IAF, \$1,046,000/Recurring/General Fund, and \$165,400/One-Time/General Fund, an increase to local revenue exceeding \$303,800/Recurring and an increase to local expenditures exceeding \$4,700.* On April 5, we received additional information from the Department of Transportation. Based on this new information, the fiscal impact for this bill as amended is estimated as follows.

(CORRECTED)

Increase State Revenue –

**\$10,857,600/Recurring/Interlock Assistance Fund (IAF)
\$474,200/Recurring/Earmarked For Department of Safety
Exceeds \$1,969,800/Recurring/General Fund**

Increase State Expenditures –

**\$9,796,800/Recurring/IAF
\$1,046,000/Recurring/General Fund
\$165,400/One-Time/General Fund**

Increase Local Revenue – Exceeds \$303,800/Recurring

Increase Local Expenditures – Exceeds \$4,700/Recurring*

Other Fiscal Impact – Non-compliance with federal requirements will result in the transfer of three percent of federal highway funds appropriated to the State for the National Highway System as required by U.S. Title 23 § 164. Approximately \$16,000,000 will be transferred to U.S. Title 23 § 402 highway safety programs.

Assumptions applied to amendment:

- There are approximately 26,000 DUI offenders each year in Tennessee. There are approximately 20,000 first-time offenders. Some drivers are convicted of a second or subsequent offense within the time period that under this bill, the driver would have an IID installed. Some drivers will be required to have an IID installed for a period greater than one year. Some Tennessee driver license holders will be convicted out of state for similar offenses. It is estimated that approximately 26,000 drivers will be required to have an interlock device installed each year.
- Twenty percent (5,200) of DUI offenders will be declared indigent and will not pay the \$47 a month fee. Approximately five percent (1,040) of the remaining 20,800 non-indigent will decline to comply with the requirements. Approximately 19,760 will pay a \$47 monthly fee.

- Pursuant to Section 17, Part (q)(5)(A) of the bill, \$45 of the \$47 monthly fee will be allocated to the Interlock Assistance Fund (IAF). The total amount allocated to the IAF each year from monthly fees will be approximately \$10,670,400 (19,760 non-indigent offenders x \$45 x 12 months).
- Pursuant to Section 17, Part (q)(5)(B) of the bill, \$2 of the \$47 monthly fee is allocated to the Department of Safety to offset the increased expenditures to administer specified provisions of this bill. A total of approximately \$474,200 will be allocated to the Department annually (19,760 x \$2 x 12 months).
- Twenty percent of indigent offenders, or 1,040, do not own a vehicle or will not obtain a driver license with an IID restriction and will choose to have an alcohol monitor device installed. The annual cost of one of these devices can range from approximately \$2,600 to \$9,000. The average cost of a device is estimated to be \$4,500 each year.
- The average cost of installing and maintaining an IID is approximately \$1,230 per year.
- This bill requires non-indigent offenders to cover all costs associated with a device. The cost is significantly less to install an IID than an alcohol monitor device. Zero non-indigent offenders will have alcohol monitor devices installed.
- The overall average cost to support one indigent offender is approximately \$1,884 $[(\$1,230 \times 80\%) + (\$4,500 \times 20\%)]$.
- There will be a five percent surcharge on the gross profits of IID and alcohol monitor devices providers in the state which will be paid to the IAF. It is estimated that the average gross profit will be \$150 per device annually. The total estimated revenue from the surcharge is estimated to be approximately \$187,200 (24,960 offenders x \$150 gross profit annually per device x 5%).
- The total increase in recurring revenue to the IAF is approximately \$10,857,600 $(\$10,670,400 + \$187,200)$.
- The revenue in the IAF will cover IID and alcohol monitor costs for all indigent offenders. Approximately 1,040 indigent offenders will have an alcohol monitor device installed and 4,160 will have an IID installed. The total cost to cover all indigent offenders is approximately \$9,796,800.
- This will result in a surplus of approximately \$1,060,800 in the IAF each year. This surplus will not revert to the General Fund and will be carried forward in the IAF each year $(\$10,857,600 - \$9,796,800 = \$1,060,800)$.
- According to the Board of Probation and Parole (BOPP), the requirements of this bill will increase the responsibilities of Probations and Parole Officers in supervising DUI offenders who are convicted of a fourth or subsequent offense. It is estimated that one additional Officer 2 will be needed in each of the eight districts statewide. The recurring costs associated with one new position are \$46,800 (\$28,700 salary, \$9,800 benefits, \$3,000 travel, and \$5,300 supplies, annual training, and other) and one time costs for supplies are \$800 per position. The total increase in state expenditures to the BOPP is approximately \$374,400 recurring and \$6,400 one-time.
- According to the Department of Safety, approximately 3,900 restricted driver licenses are issued to DUI offenders each year for a fee of \$67. This bill will require each offender who applies for any license to pay a \$65.00 fee. The net impact on recurring state revenue will be an increase of \$1,119,100 $[(\$65 \times 21,237) - (\$67 \times 3,900)]$.
- The Department of Safety will need approximately 22 additional Safety Examiner 2 positions to review applications and issue additional licenses. The total recurring cost


associated with one position is approximately \$30,525 (\$20,616 salary, \$7,009 benefits, \$2,900 computer software and equipment, phone, supplies). The total increase in recurring state expenditure is approximately \$671,600 (22 positions x \$30,525). One-time costs associated with creating 22 new positions will be \$5,000 per position (office space, supplies, computer equipment) for a total of \$110,000.

- The Department of Safety will require 14 computer program changes at a cost of \$3,500 each for a one-time cost of \$49,000.
- Total one-time expenditures from DOS will increase by \$159,000.
- The sale of IID devices will result in taxable sales of approximately \$24,304,800. Approximately half of this amount is estimated to be sales that would have occurred in the absence of this bill. This will result in an increase in state sales and use tax collections of \$850,700 (\$24,304,800 x 50% x 7% tax rate).
- An increase in local government revenue of approximately \$303,800 derived from an average local option sales tax rate of 2.5 percent (\$24,304,800 x 50% x 2.5%).
- There will be at least 50 total first convictions for violating IID requirements.
- According to the Department of Correction, the average cost for counties to incarcerate one individual is \$46.61 per day.
- Recurring local government expenditures will increase by at least \$4,700 (50 convictions x 2 days incarceration x \$46.61).
- According to the Department of Transportation (TDOT) and the National Highway Traffic Safety Administration, this bill as amended would cause the State to be non-compliant with federal requirements (U.S. Title 23 § 164) for minimum penalties for repeat DUI offenders. The penalty for non-compliance is the transfer of three percent of federal funding for the National Highway System including the surface transportation program and the interstate maintenance component to U.S. Title 23 § 402 highway safety programs. According to TDOT, the amount to be transferred would be approximately \$16,000,000.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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